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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,275	03/18/2004	Pamela K. Lowenthal	36655-95604	5378

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EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/803,275	Applicant(s) LOWENTHAL, PAMELA K.	
	Examiner Jason Prone	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) 14-26, 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glaeser (1,738,572) in view of Davies (6,439,093). In regards to claim 1, Glaeser discloses the invention including a dual hole punch capable of punching holes adapted to receive a two-prong fastener (Fig. 2), a base plate having an engaging surface for substantially horizontal engagement with the work piece (5), a guide bracket having a first portion (7) and a second portion extending from the first portion (8), the first portion of the guide bracket fixedly mounted to a first portion of the engaging surface (Fig. 3), the second portion of the guide bracket extending adjacent to and spaced apart from a second portion of the engaging surface (Fig. 2) to define a horizontal slot having a wall surface extending between the engaging surface and the second portion of the guide bracket (Fig. 3), the second portion of the guide bracket includes a first and second bore extending through (10), the first and second bores are perpendicular to the engaging surface (Fig. 2), a lever arm pivotally mounted to the guide bracket (15), the lever arm having a first and second bearing surface (18), only two punches (11 in Fig. 2), a first/second punch disposed in the first/second bore (11 and 10), each of the punches having a top end surface and an opposing bottom end cutting surface (11), the top end

surface of the first/second punch engagedly coupled to the first/second bearing surface of the lever arm (11 and 12 in Fig. 2), and the two punches being operable to perforate the at least one sheet in response to movement of the lever arm towards the base plate (15).

In regards to claim 7, Glaeser discloses the first bearing surface extending outwardly from a first/second planar sidewall of the lever arm to engage the top end surface of the first/second punch (18 in Fig. 2).

In regards to claim 8, Glaeser discloses a first/second upstanding flange mounted to the top of the first portion of the guide bracket proximate to the first/second planar sidewall of the lever arm and the first and second upstanding flanges having aligned apertures (17).

In regards to claim 9, Glaeser discloses a pivot pin fixedly mounted between the first and second planar sidewalls and extending through the apertures for relative movement of the lever arm about the pivot pin (16').

However, Glaeser fails to disclose the bottom end cutting surface of the punch is non-circular and each of the bottom end non-circular cutting surfaces of the punches comprise a rectangular cutting surface, an elongated cutting surface, a D-shaped cutting surface, and a modified D-shaped cutting surface.

Davies teaches that it is old and well known in the art of paper punches to incorporate punches with non-circular bottom end cutting surfaces (5b, 5f, 5h, and 5j), and each of the bottom end non-circular cutting surfaces of the punches comprise a rectangular cutting surface (5f), an elongated cutting surface (5j), a D-shaped cutting

surface (5b), and a modified D-shaped cutting surface (5h). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Glaeser with punches with non-circular bottom end cutting surfaces, as taught by Davies, to allow the user to punch a desired shape.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glaeser in view of Davies as applied to claim 1 above, and further in view of applicant's admitted prior art (aapa). Glaeser in view of Davies disclose the engaging surface includes a first and second die and the first/second die defining a first/second die aperture configured to receive the bottom end non-circular cutting surface of the first/second punch (9 in Glaeser).

However, Glaeser in view of Davies fail to disclose the center of the bottom end non-circular cutting surface of the first punch is positioned about 2.75 inches from a center of the bottom end non-circular cutting surface of the second punch. In paragraph [0002] on page 2 of applicant's specification, aapa teaches "Hole punch devices having dual punch elements with circular cutting surfaces are used to create dual circular perforations, typically having centers 2.75 inches apart, in a top portion of one or more sheets of paper". Aapa teaches it is old and well known in the art of punches to have the punch centers spaced 2.75 inches apart. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Glaeser in view of Davies with a spacing of 2.75 inches between the centers of two punches, as taught by aapa, to allow a specific/common area in-between the punches.

4. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glaeser in view of Davies as applied to claim 1 above, and further in view of Yerkes (2,524,582). Glaeser in view of Davies disclose the invention including a first/second resilient member disposed around the first/second punch (14).

However, in regards to claim 10, Glaeser in view of Davies fail to disclose a first end of the first/second resilient member coupled to a first/second lip radially disposed in the first/second bore and a second end of the first/second resilient member coupled to a radially extending flange disposed proximate to the top end surface of the first/second punch, and the first/second resilient biases the first/second punch away from the base plate. In regards to claim 11, Glaeser in view of Davies fail to disclose an adjustable guide adapted to position the work piece. In regards to claim 12, Glaeser in view of Davies fail to disclose a first/second rod assembly adapted to reciprocally move within at least one aperture formed in a first/second side of the base plate, the first/second assembly having at least one reciprocally moveable rod and an angled bracket perpendicularly mounted to a first end of the at least one rod. In regards to claim 13, Glaeser in view of Davies fail to disclose the at least one rod of the first rod assembly is adapted to interlink with the at least one rod of the second rod assembly, and the linear reciprocal movement of the first rod assembly causes equal linear reciprocal movement of the second rod assembly.

In regards to claim 10, Yerkes teaches a first/second resilient member disposed around the first/second punch (35), a first end of the first/second resilient member coupled to a first/second lip radially disposed in the first/second bore (32) and a second

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end of the first/second resilient member coupled to a radially extending flange disposed proximate to the top end surface of the first/second punch (34), and the first/second resilient biases the first/second punch away from the base plate (35).

In regards to claim 11, Yerkes teaches an adjustable guide adapted to position the work piece (45).

In regards to claim 12, Yerkes teaches a first/second rod assembly (45) adapted to reciprocally move within at least one aperture formed in a first/second side of the base plate (50), the first/second assembly having at least one reciprocally moveable rod (45) and an angled bracket perpendicularly mounted to a first end of the at least one rod (47).

In regards to claim 13, Yerkes teaches the at least one rod of the first rod assembly is adapted to interlink with the at least one rod of the second rod assembly (54), and the linear reciprocal movement of the first rod assembly causes equal linear reciprocal movement of the second rod assembly (54).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Glaeser in view of Davies with an alternate resilient member and an adjustable guide, as taught by Yerkes, to provide an alternate method of allowing the handle to move to the inoperative state after each punch is completed and to better align the work piece with the punches.

Response to Arguments

5. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Misson, Semler, Marano, and Aleks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 29, 2006

A handwritten signature in black ink, appearing to read "Jason Prone", written in a cursive style.

Patent Examiner

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Jason Prone

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